

**REMARKS**

Applicant respectfully requests reconsideration of this application, as amended herein. Claims 1-16 were pending in the application. Claims 10-11 and 13-16 have been canceled, Claims 1, 3-8, and 12 have been amended for further clarification, and Claim 17 has been added. Therefore, Claims 1-9, 12, and 17 are pending in the application.

The Examiner rejected Claims 9-10 and 12-15 under 35 U.S.C. § 112 as being indefinite. As Applicant has canceled Claim 10 and 13-15 herein, it is respectfully submitted that the instant rejection is now moot with respect to those claims. With respect to Claims 9 and 12, Applicant respectfully traverses the rejection. Claim 9 recites a limitation on the game controller for the playing of the claimed method. As described in the specification, the method contemplates a separate controller to maintain the flow of the game. While a preferred embodiment is presented using an electronic device, such as a computer or video game machine, the game can also be played as a table game having a human "dealer" to serve as the game controller. Claim 12 clearly recites a method having specific steps fully described in the specification and figures. Applicant respectfully requests the rejection of Claims 9 and 12 be reconsidered.

The Examiner also rejected Claims 10-11 and 13-16 under 35 U.S.C. § 112 as being divergent between a device for playing a game and the game being played. As Applicant has canceled Claims 10-11 and 13-16 herein, it is respectfully submitted that the instant rejection is now moot with respect to those claims.

The Examiner rejected the claims of the instant application for double patenting as conflicting with the claims of co-owned Application No. 09/981,467. Applicant respectfully traverses the rejection. Games of chance are distinguished by unique characteristics, such as the elements used for play of a game, the method steps carried out for play of the game, odds

associated with obtaining specific winning combinations, and payouts for wagering. Assorted combinations of such characteristics lure players to the games and fill gambling casinos throughout the country. The game described and claimed in the instant application is completely different from that described in Application No. 09/981,467. Applicant has amended the claims in each application in order to obviate conflict.

Applicant will now more particularly address the remaining Examiner's rejections.

**The Rejections under 35 U.S.C. § 102(b)**

The Examiner rejected Claims 1-3 and 13 under 35 U.S.C. 102(b) as being anticipated by Moody et al. [US5976016]. Applicant respectfully traverses the rejection.

Amended independent Claim 1 requires that the playing elements comprise balls of unique colors and a Table of Values that rewards a player who obtains at least one specific combination of a preselected color and preselected indicia, such as three black 8 balls as identified in the Table of Values on page 16 of the specification. The specific combination of types of elements and odds of obtaining a specific winning combination make this a unique game, unlike that disclosed in the reference. Moody et al. in no way teach or suggest such a construction as claimed using colored balls as playing elements and having a specific Table of Values. Rather, Moody et al. teach a slot machine game in which the same selected elements are played for multiple lines. Nowhere in the specification or table of values disclosed by Moody et al. is a specific combination of a selected indicia and color described or suggested. As Moody et al. fail to disclose such a limitation, independent Claim 1 is patentably distinguished. Claims 2 and 3 depend from Claim 1 and incorporate the same limitations as Claim 1. Thus, Claims 2 and 3 are patentably distinguished. As Applicant has canceled Claim 13 herein, it is respectfully submitted that the instant rejection is now moot with respect to that claim.

**The Rejection under 35 U.S.C. § 103(a)**

The Examiner rejected Claims 4-12 and 14-16 under 35 U.S.C. 103(a) as being unpatentable over Moody et al. [US5976016]. Applicant respectfully traverses the rejection. The Examiner suggests that the selected colors lack criticality. While any one color is not critical to most games, the color black, particularly as associated with the number 8 on a ball, is particularly relevant to a game such as billiards or pool. Therefore, color can be a critical element. The playing elements in the present game resemble pool balls, although the bulk of the color scheme only matches other ball/number combinations coincidentally. A color/number combination is required for the Table of Values. Moreover, Claims 4-9 and 12 depend from Claim 1 and incorporate the same limitations as Claim 1, which, as described above, is patentably distinguished from Moody et al. Thus, Claims 4-9 and 12 are patentably distinguished. As Applicant has canceled Claims 10, 11 and 13-16 herein, it is respectfully submitted that the instant rejection is now moot with respect to those claims.

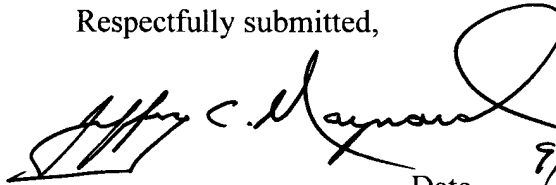
**Newly Added Claim 17**

The newly added claim captures additional features of the invention that the Applicant claims as his own. In particular, new Claim 17 parallels Claims 8 and 9. As described above, the method of the described game contemplates a separate controller to maintain the flow of the game. While a preferred embodiment is presented using an electronic device, such as a computer or video game machine, the game can also be played as a table game having a human "dealer." Claim 17 recites a limitation on the game controller for the playing of the claimed method. Applicant respectfully asserts that the foregoing amendments put the claims in condition for allowance.

**CONCLUSION**

Applicant has made a diligent effort to address the objections identified by the Examiner and believe all claims remaining in the application are allowable. Accordingly, a Notice of Allowability is respectfully requested. However, if the Examiner is of the opinion that the present application is not in condition for allowance, Applicant respectfully requests that the Examiner contact Applicant's attorney at the telephone number listed below so that additional changes may be discussed.

Respectfully submitted,

  
Date 9/26/03

Jeffrey C. Maynard  
Reg. No. 46,208

Attorney for Applicant  
154 Barbara Road  
Severna Park, MD 21146  
Phone: (410) 421-5031  
(410) 347-9496